HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No. 334 of 2007

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Between:

K. Varalakshmi & others

…Appellants

And

The Land Acquisition Officer-cum-
Revenue Divisional Officer,
Chittoor & another

….Respondents.

:: J U D G M E N T ::

Counsel for the appellants : Shri K.V. Subrahmanya Narasu

Counsel for the respondents : Government Pleader for
Land Acquisition

23.04.2007

Per G.S. SINGHVI, CJ

This appeal is the sixth round of litigation by the appellants, who are desperately trying to protect the properties owned by them in Puttur Town, Chittoor District. In the first instance, they filed Writ Petition No.865 of 2006 for restraining the respondents from demolishing their constructions. The same was disposed of by this Court on 16-1-2006 with a direction to the respondents not to resort to illegal demolition of the buildings. After eight months, District Collector, Chittoor issued notification under Section 4 (1) of the Act for acquisition of the appellants' properties. He dispensed with enquiry envisaged under Section 5-A by invoking urgency clause enshrined in Section 17 (4). The appellants challenged the same in Writ Petition No.20973 of 2006, which was disposed of by this Court on 11-10-2006 by directing the respondents to conduct enquiry under Section 5-A of the Act.

In compliance of the direction given by the Court, Land Acquisition Officer-cum-Revenue Divisional Officer, Chittoor (respondent No.1) issued notice dated 3-11-2006 to the appellants for holding enquiry under Section 5-A. They challenged the same in Writ Petition No.23747 of 2006, which is pending adjudication.

During the pendency of the last mentioned writ petition, the appellants filed Contempt Case No.4237 of 2006 by alleging that the notice issued by respondent No.1 in Form-3 was a farce and they will be deprived of their property without conducting an enquiry under Section 5-A. The learned Single Judge vide his order dated 2-1-2007 disposed of the contempt case by making the following observations:

> "It is however admitted that the Form-3 notice issued is wholly defective. On behalf of the respondents, the learned Government Pleader for Land Acquisition states that the respondents would forthwith withdraw the Form-3 notice and issue a fresh notice to the petitioners calling for lodging of objections. The objections lodged by the petitioners will be received (by the competent authority obligated to consider the objections under Section 5 of the Act) and these shall be disposed of in accordance with law by an order duly passed by the competent authority."

Soon after disposal of the contempt case, respondent No.1 issued fresh notice dated 6-3-2007 in Form-3.

The appellants challenged the notice by asserting that the enquiry proposed to be held by the officer concerned will be illusory because the respondents have already made up their mind to compulsorily acquire their properties. This time, the learned Single Judge dismissed the writ petition. He referred to Section 5-A and held as under:

> "The underlying assumption of this rule is its applicability to a context where urgency is not invoked and Section 5-A process is followed. To circumstances in which initially Section 5-A notice is dispensed with by the State and the Court finds such invocation of urgency and dispensing with the opportunity under Section 5-A of the Act to be invalid, Rule 1 has no application. When this Court had directed that notice should be issued, what all is contemplated is that the respondents should issue a reasonable notice enabling the persons interested to respond with their objections to the acquisition process. In the case on hand, the impugned Form-3 notice affords the petitioners 15 days time from the date of receipt of that notice. The petitioners would have formulated their objections to the acquisition process since 27-9-2006 when the initial notification under Section 4(1) of the Act was issued. In the totality of the circumstances, the affording of 15 days time from the date of receipt of the Form-3 notice now issued does not appear unreasonable. It is also not in violation of any statutory mandate. There is thus no infirmity in the impugned notice."

The appellants' plea that respondent No.1 is not competent to make enquiry under Section 5-A was rejected by the learned Single Judge by making the following observations:

> "Section 5-A(2) of the Act obligates the Collector to consider any objection made under Section 5-A(1) of the Act and thereafter to submit a report to the appropriate Government containing his recommendations on the objections together with the record of proceedings. The decision making process in the drawing up of the report to the appropriate Government is consecrated to the District Collector. The issuing of a notice calling for objections, and receiving the objections, is not a critical process or component substantive or procedural. It is a ministerial process. In the circumstances and on the above analysis, issuance of notice under Section 5-A of the Act soliciting objections from the petitioners by the RDO, does not suffer from any substantive infirmity warranting interference."

Shri K.V. Subrahmanya Narasu, learned counsel appearing for the appellants argued that notice impugned in the writ petition is liable to be declared non est because it is against the mandate of Section 5-A of the Act, which envisages issue of at least 30 days notice for the purpose of filing objections. He reiterated the contentions urged before the learned Single Judge and submitted that the appellant should not be compelled to wait till the issue of draft declaration under Section 6 of the Act.

We have considered the submission of the learned counsel, but are not inclined to agree with him. Section 5-A of the Act reads as under:

> " **Hearing of objections:** (1) Any person interested in any land which has been notified under Section 4, sub-section (1) as being needed or likely to be needed for a public purpose or for a company may (within thirty days from the date of publication of the notification of the land or any land in the locality, as the case may be.
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> (2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard (in person or by any person authorized by him in this behalf) or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary (either make a report in respect of the land which has been notified under Section 4, sub-section (1) or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of proceedings held by him for the decision of the Government). The decisions of the (appropriate Government) on the objections shall be final.
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> (3) For the purposes of this section a person, shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.)"

A reading of the plain language of the above re-produced provision shows that any person interested in the land which is subject matter of acquisition can, after issue of notice under Section 5-A of the Act, file objections within a period of 30 days. It is, thus, evident that the period of 30 days is relatable to the right of the person to lodge objections and the mere fact that the notice issued by the competent authority does not specify the time period of 30 days is inconsequential. If the concerned authority submits final report before 30 days, within which time the interested person can lodge objections, the latter can challenge the same, but the notice cannot be quashed only on the ground that the period specified therein for filing objections is less than 30 days.

In the present case, the petitioners have already lodged their objections, which are yet to be considered and decided by respondent No.1. Therefore, we do not find any valid ground to entertain the appellants challenge to the notice issued under Section 5-A of the Act by presuming that respondent No.1 will not objectively consider the objections.

For the reasons stated above, the appeal is dismissed. However, we deem it proper to accept the oral request made by Shri K.V. Subramanya Narasu for grant of two weeks time to his clients to file additional

objections and direct that the additional objections, if any filed by the appellants within a period of two weeks from today shall be considered by respondent No.1 before submitting report to the competent authority.

As a sequel to disposal of the writ appeal, W.A.M.P.No.645 of 2007 filed by the appellants for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

23.04.2007
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